

Remarks/Arguments

This application is a continuation of application serial no. 10/255,828 filed September 26, 2002 entitled “Firearm Lock Assembly” (hereinafter “‘828 application”). The ‘828 application was allowed on January 8, 2004. The allowed claims call for, among other elements, a lock housing formed of an inner plastic body encapsulated within a saw resistant shell which is formed of hardened steel having a Rockwell hardness of about 30 or greater. This arrangement, in large part, solves the security problem facing gun owners by deterring a sawing or cutting attack while at the same time reducing the manufacturing costs of making the housing an inner core of hardened steel laminations as is explained in the background section of the ‘828 application. The ‘828 application points out that the encapsulated body (42) is made of a suitable substantially rigid material and specifically a plastic material. Substantially rigid materials other than plastic could perform the same function as the body (42), i.e., (a) provide a cable receiving bore, a key lock cylinder cavity and space for a locking member coupled to the key lock and arranged to engage the free end of the cable and (b) at the same time lower the manufacturing cost as compared to the use of hardened steel laminations.

The claims in this application mirror the structure called for in the allowed claims, but broaden the definition of the materials for the inner body, i.e., a substantially rigid non-steel material (claim 1) or a material having a hardness value less than that of the hardened steel shell (claim 13). Clearly this definition of the inner body material reads on the plastic material identified in the specification. Such broadened language is in keeping with the reasons for the allowance of the ‘828 application while, in an abundance of caution, ensuring that applicant is afforded protection for equivalents.

This continuation-in-part application is in harmony with *Johnson & Johnson Associates Inc. v. RE Service, Inc.* 285 F.3d 1046, 1057, 62 USPQ2d 1225 (Fed. Cir. 2002) and *Sage Products v. Devon Industries, Inc.* 126 F.3d 1420, 1421, 14 USPQ2d 1103 (Fed. Cir. 1997) where the court in quoting from *Sage* stated that:

“If Sage desired broad patent protection for any container that performed a function similar to its claimed container, it could have sought claims with fewer structural encumbrances. Had Sage done so, then the patent and Trademark Office (PTO) could have fulfilled its statutory role in helping to ensure that exclusive rights issue only to those who have, in fact, contributed something new, useful, and unobvious.” 285 F.3d at 1057

The changes to the application and claims in more broadly defining the material for the housing does not add any new matter, i.e., the body being made of “a substantially rigid material: is set forth in the ‘828 application on page 8, lines 24-25 and plastic is a non-steel material.

Applicant is submitting herewith a terminal disclaimer to preclude any rejection based on double patenting.

This application is now believed to be in condition for allowance and such action is courteously solicited. If applicant's attorney can be of any further assistance, please call the undersigned at the number provided.

Respectfully submitted,

JACKSON LAW CORPORATION


Harold L. Jackson, Reg. No. 17,766
14751 Plaza Dr., Ste. N
Tustin, CA 92780
(714) 832-2080

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 9, 2004.


Harold L. Jackson March 9, 2004